

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION**

TCF NATIONAL BANK,

Plaintiff,

v.

**BEN S. BERNANKE, JANET L. YELLEN, et
al**

Defendants.

Case No. 4:10-cv-04149-LLP
Judge Lawrence L. Piersol

**MOTION FOR LEAVE TO
FILE AMICUS BRIEF IN
SUPPORT OF DEFENDANTS
and
CERTIFICATE OF SERVICE**

COMES NOW amicus curiae U.S. PIRG hereby respectfully moves pursuant to Federal Rules of Civil Procedure 7(b)(1) and Local Rule 7.1 for permission to file an amicus brief in support of defendants in this above-captioned case. This Court has issued a scheduling order providing that motions to file amicus briefs may be filed on or before March 4, 2011, with or without a copy of the proposed brief, and that the deadline for filing briefs is March 11, 2011. (Docket Nos. 45, 47).

In support of this motion, the proposed amicus curiae states as follows:

The proposed amicus curiae, U.S. PIRG, serves as the non-profit, non-partisan Federation of State Public Interest Research Groups, which are public interest advocacy groups with over one-half million members nationwide. Amicus has no financial interest in any party to the case or in the outcome of the case.

The proposed amicus curiae seeks to submit a brief in support of defendants' motion to dismiss plaintiff's challenge to the "Durbin Amendment," Section 1075 of the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act of 2010 ("Dodd-Frank"), Public Law 111-

203. Amicus seeks to submit its brief due to the importance of the impact this case will have on consumers and the payment card market.

Counsel for the proposed amicus curiae has contacted counsel for the plaintiff and counsel for the defendants in this matter. Neither party has any objection to the proposed amicus curiae filing an amicus brief in the above-captioned case.

Dated this 4th day of March, 2011.

Thomas W. Clayton

Thomas W. Clayton, Esq.
Clayton Law P.C.
6809 S. Minnesota Ave. Ste 204
Sioux Falls, SD 57108
605-331-2565
605-331-5828 (fax)
twc.clo@midconetwork.com

David A. Balto, Esq.*
LAW OFFICES OF DAVID BALTO
1350 I Street, NW, Suite 850
Washington, DC 20005
(202) 789-5424
david.balto@yahoo.com

* *Pro hac vice* motion pending

CERTIFICATE OF SERVICE

I hereby certify that on March 4, 2011, I caused the foregoing **Motion for Leave to File Amicus Brief in Support of Defendants** to be served on all parties by sending a copy via electronic mail to the following:

Mark V. Meierhenry: mark@meierhenrylaw.com

Clint L. Sargent: clint@meierhenrylaw.com

William E. Blewett: bill@meierhenrylaw.com

Richard Allen Epstein: repstein@uchicago.edu

Timothy D. Kelly: tkelly@kellyhannahlaw.com

Sarah E. Bushnell: sbushnell@kellyhannahlaw.com

Bradley H. Cohen: bradley.cohen@usdoj.gov

Nathan Michael Swinton: Nathan.M.Swinton@usdoj.gov

Diana J. Ryan: diana.ryan@usdoj.gov

Dated this 4th day of March, 2011/

Thomas W. Clayton

Thomas W. Clayton, Esq.